

**Notice of Allowability**

Application No.

10/055,255

Examiner

John M. Winter

Applicant(s)

HAMILTON, ROBERT DOUGLAS

Art Unit

3621

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--**

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to The paper filed on July 10, 2006.
2. ☒ The allowed claim(s) is/are 39,40 and 42-57.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some\* c) ☐ None of the:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
- (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
- 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
- (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

**Attachment(s)**

1. ☒ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO/SB/08),  
Paper No./Mail Date \_\_\_\_\_
4. ☐ Examiner's Comment Regarding Requirement for Deposit  
of Biological Material
5. ☐ Notice of Informal Patent Application
6. ☐ Interview Summary (PTO-413),  
Paper No./Mail Date \_\_\_\_\_
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other \_\_\_\_\_

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**DETAILED ACTION*****Examiner's Amendment***

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with David Jacobson on February 15, 2007.

**Claim 39.**

A method for providing multimedia content to a customer comprising: connecting a computing device to a first server via a data communication network, the computing device including a display screen, communicating first data from the first server to the computing device via the data communication network, the first data ~~defining~~ implementing a first graphical user interface that provides for user selection of multimedia content; displaying the first graphical user interface on the display screen of the computing device; in response to user interaction with the first graphical user interface whereby the user selects particular multimedia content, communicating second data identifying the particular multimedia content from the computing device to the first server over the data communications network; connecting a second server to a media receiver at the customer's premises via a distribution network, the distribution network employing a plurality of RF channels for delivery of multimedia content from the second server to the media receiver, the media receiver separate and distinct from the computing device; communicating a command to the media receiver via the distribution network, the command providing third data that enables the media receiver to tune to at least one particular RF channel of said plurality of RF channels of the distribution network and receive the particular media content over said at least one particular RF channel, wherein the command is communicated to the media receiver upon a determination that sufficient bandwidth is available over said at least one particular RF channel; upon receipt of the command at the media receiver, tuning the media receiver to said at least one particular RF channel; and communicating the particular media content from the second server to the media receiver over said at least one particular RF channel of the distribution network where it is received at the media receiver for output therefrom..

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***Allowable Subject Matter***

Claims 39,40 and 42-57 are allowed over the prior art record.

1. The following is an examiner's statement of reasons for allowance:
2. The closest prior art of record Barker (US Patent No 6,141,682) teaches a Method and apparatus for integrating interactive local internet access and downstream data transfer over a cable TV system with upstream data carried by other media. Akiyama (EP 1 041 767 A2) teaches a system for authenticating data send to a certified system. Pay Per View Streaming teaches a system implementing the purchasing of online content.

What they fail to teach or suggest:

As per claim 1,

none of the art of record, taken individually or combination disclose at least the steps/components of : connecting a second server to a media receiver at the customer's premises via a distribution network, the distribution network employing a plurality of RF channels for delivery of multimedia content from the second server to the media receiver, the media receiver separate and distinct from the computing device; communicating a command to the media receiver via the distribution network, the command providing third data that enables the media receiver to tune to at least one particular RF channel of said plurality of RF channels of the distribution network and receive the particular media content over said at least one particular RF channel, wherein the command is communicated to the media receiver upon a determination that sufficient bandwidth is available over said at least one particular RF channel; upon receipt of the command at the media receiver, tuning the media receiver to said at least one particular RF channel; and communicating the particular media content from the second server to the media receiver over said at least one particular RF channel of the distribution network where it is received at the media receiver for output therefrom..

Even if the features missing from the above cited prior art were found in a reasonable number of references a person of ordinary skill in the art at the time of the invention would not have been motivated to combine these reference because the claimed feature of "upon receipt of the command at the media receiver, tuning the media receiver to said at least one particular RF channel; and communicating the particular media content from the second server to the media receiver over said at least one particular RF channel of the distribution network where it is received at the media receiver for output therefrom" is not a feature normally associated with media distribution and therefore would have to be disclosed by art unrelated to media distribution.

Claims 40 and 42-57 are dependant upon claim 39 and are therefore allowable for at least the same reasons.

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**Conclusion**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to John M. Winter whose telephone number is (571) 272-6713. The examiner can normally be reached on M-F 8:30-6, 1st Fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew Fischer can be reached on (571) 272-6779. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



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